

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

URBANO PEREZ	§	CIVIL ACTION NO.
	§	
v.	§	
	§	
FIESTA MART, L.L.C.	§	NOTICE OF REMOVAL

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT:

Defendant, **FIESTA MART, L.L.C.**, pursuant to 28 U.S.C. §§1441 and 1332, provides notice of removal of this action styled *Urbano Perez vs. Fiesta Mart, L.L.C.*, Cause No. DC-22-01838, currently pending in the 134th Judicial District Court of Dallas County, Texas, and in support thereof, respectfully shows unto this Court as follows:

1. Plaintiff, Urbano Perez, filed his Original Petition on February 15, 2022, claiming damages from a slip and fall incident. Plaintiff served Defendant with the citation on February 25, 2022; therefore, this notice is timely under 28 U.S.C. §§1446(b).

2. Pursuant to 28 U.S.C. §§1446 and the Local Rules of the United States District Court for the Northern District of Texas, attached are the following:

- Exhibit 1: Local Rule 81.1 Index;
- Exhibit 2: Completed Civil Cover Sheet;
- Exhibit 3: Completed Supplemental Civil Cover Sheet;
- Exhibit 4: The Docket Sheet of the 134th Judicial District Court of Dallas County, Texas for Cause No. DC-22-01838; *Urbano Perez vs. Fiesta Mart, L.L.C.*;
- Exhibit 5: Plaintiff's Original Petition (filed in the state court on February 15, 2022);
- Exhibit 6: Issuance of Citation for Fiesta (filed in the state court on February 15, 2022);

- Exhibit 7: Executed Citation for Fiesta (filed in the state court on March 16, 2022);
- Exhibit 8: Fiesta Mart, L.L.C.'s Original Answer (filed in the state court on March 21, 2022);
- Exhibit 9: Affidavit of Jorge Del Toro;
- Exhibit 10 - Jury Demand (filed in the state court on March 24, 2022); and
- Exhibit 11: A copy of the Notice of Removal to be filed in state court.

3. The District Courts of the United States have original jurisdiction over this action by reason of diversity of citizenship between the parties. 28 U.S.C. §1332. Plaintiff's Original Petition alleges that Plaintiff, Urbano Perez, resides in Dallas County, Texas, and therefore is a citizen of the state of Texas. Although Defendant, Fiesta Mart, L.L.C., is a limited liability company organized under the laws of Texas, its sole member is Bodega Latina Corp., a Delaware corporation with its principal place of business in California. *See* Exhibit 9. Defendant, Fiesta Mart, L.L.C.'s, citizenship as an LLC is determined by the citizenship of its members.¹ A corporation, such as Bodega Latina Corp., is deemed to be a "citizen" of the state where it maintains its principal place of business and the state of its incorporation.² Therefore, Defendant is a citizen of the states of Delaware and California, the principal place of business and the state of incorporation of Fiesta Mart, L.L.C.'s sole member, Bodega Latina Corp.

4. Plaintiff's Original Petition in state court seeks damages over \$250,000.00 but not more than \$1,000,000.00, and thus the amount in controversy exceeds the sum of \$75,000.00, exclusive of interests and costs. *See* Exhibit 5.

¹ *See e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

² *See* 28 U.S.C. §1332(c)(1); *see also, Hertz Corp. v. Friend*, 559 U.S. 77, 130 S. Ct. 1181, 1185-85 (2010).

5. Removal of this cause of action is proper under 28 U.S.C. §1441. It is a civil action brought in state court and the District Courts of the United States have original jurisdiction over this action under 28 U.S.C. §1332, since the Plaintiff and the Defendant are diverse in citizenship.

6. As required by 28 U.S.C. §1441, the 134th Judicial District Court of Dallas County, Texas falls within the geographical purview of this Court, and thus, venue is proper in the United States District Court of the Northern District of Texas, Dallas Division.

7. Written notice of filing of this Notice of Removal is being promptly given to Plaintiff and a notice of Filing of Notice of Removal is promptly being filed with the 134th Judicial District Court in Dallas County, Texas, as required by 28 U.S.C. §1446(d).

WHEREFORE, PREMISES CONSIDERED, Defendant, Fiesta Mart, L.L.C., prays that the state action now pending in the 134th Judicial District Court in Dallas County, Texas, be removed to this Court, and for any further relief to which Defendant is justly entitled.

Respectfully submitted,

RAMSEY & MURRAY, P.C.



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Attorney for Defendant

CERTIFICATE OF SERVICE

I do hereby certify that on this the 25th day of March 2022, a true and correct copy of the foregoing Notice of Removal was electronically filed with the Clerk of the Court using the CM/ECF system and was served via the CM/ECF system to Plaintiff through counsel or record identified below:

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